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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KRISTAL MADRID individually and)
as personal representative of)
the Estate of PEDRO MADRID,)
Plaintiffs,)
v.)
JUAN GURROLA, individually,)
JUSTIN BELL, individually, MONTY)
LEWIS, JR., individually, GEORGE)
VALDEZ, individually, and FRANK)
MENDOZA, individually,)
Defendants.)

1:08-cv-0098 OWW SMS
FINAL PRETRIAL ORDER
Motion in Limine Date:
4/6/11 12:00 Ctrm. 3
Trial Date: 4/12/11 9:00
Ctrm. 3 (JT-10 days)

I. JURISDICTION AND VENUE

1. The parties do not dispute that jurisdiction exists under 28 U.S.C. §§ 1331, 1343 and under 42 U.S.C. § 1983. The parties do not dispute that venue is proper under 28 U.S.C. § 1391. The parties do not dispute that the substantive law of the State of California provides the rule of decision regarding plaintiff's supplemental jurisdiction claims. [See Dkt. Doc. 10 at 5-6.]

II. JURY/NON-JURY

1. All parties have demanded a jury trial in this matter.

1 [See Dkt. Doc. 7 at 12; Dkt. Doc. 38 at 16; Dkt. Doc. 40 at 17.]
2 The parties do not contest a trial by jury of the factual
3 disputes of this action.

4 III. FACTS

5 A. Undisputed Facts

6 Nothing in this Pre-Trial Statement or in this section
7 shall be construed as a stipulation that any of the following
8 undisputed facts are admissible. Each of the parties reserves
9 the right to object to specific facts *infra* from being read to
10 the jury.

11 1. On January 9, 2007, shortly after 12:30 a.m., FPD
12 Officer Ronnie Pack saw Pedro Madrid walking barefoot in the
13 middle of the street near the Kern Street overpass of the 99
14 Freeway in the City of Fresno. Pedro Madrid was yelling at no
15 apparent person.

16 2. Officer Pack then contacted Pedro Madrid: Madrid then
17 explained that someone was trying to "get him."

18 3. Pedro Madrid then consented to a pat-down frisk of his
19 person by Officer Pack: the pat-down frisk yielded no weapons.
20 Officer Pack did not report to other FPD officers, over the radio
21 or otherwise, whether Madrid was armed or unarmed.

22 4. Officer Pack observed that Pedro Madrid was fidgety and
23 appeared unable to be still. Pedro Madrid appeared to be either
24 under the influence of a controlled substance or mentally ill.

25 5. When asked, Pedro Madrid admitted that he had smoked
26 some "meth" about 90 minutes prior.

27 6. Officer Pack observed that Pedro Madrid's pupils were
28 dilated and that his heart rate was elevated, which is consistent

1 with someone being under the influence of methamphetamine.

2 7. Pedro Madrid appeared anxious at the prospect of being
3 arrested.

4 8. At the time of the incident, Pedro Madrid was on felony
5 probation. Plaintiff contends that this fact should not be
6 admitted into evidence and should not be read to the jury.

7 9. When Officer Pack attempted to handcuff Madrid, Madrid
8 ran away from Officer Pack, westbound on Kern Street.

9 10. Officer Pack then reported Pedro Madrid's flight over
10 his police radio and pursued Pedro Madrid on foot.

11 11. Pedro Madrid then climbed over a fence and ran onto the
12 traffic lanes of the 99 Freeway near the Kern Street overpass.

13 12. In response, FPD police officers - including defendant
14 Officers JUAN GURROLA and MONTY LEWIS, JR. - pursued Pedro
15 Madrid, on foot, onto the 99 Freeway.

16 13. FPD officers attempted to detain and restrain Pedro
17 Madrid.

18 14. FPD officers used force upon Pedro Madrid while acting
19 under color of law.

20 15. During the FPD officers' attempts to restrain Pedro
21 Madrid, FPD police officers on the scene used various types of
22 force upon Pedro Madrid.

23 16. Subsequently, some time after FPD police officers had
24 handcuffed Pedro Madrid, FPD police officers observed that he did
25 not appear to be breathing.

26 17. In response, FPD police officers began lifesaving
27 procedures on Pedro Madrid, including cardiopulmonary
28 resuscitation ("CPR").

1 18. Firefighters or emergency medical personnel then came
2 to the scene and took over lifesaving procedures on Pedro Madrid.

3 19. The firefighters or emergency medical personnel then
4 transported Pedro Madrid to University Medical Center ("UMC") in
5 Fresno.

6 20. After being transported to UMC, methamphetamine was
7 detected in Pedro Madrid's blood.

8 21. While at UMC, Pedro Madrid was unconscious, was placed
9 on life support, and never regained consciousness.

10 22. At UMC, Pedro Madrid was diagnosed with anoxic
11 encephalopathy.

12 23. On January 12, 2007, after UMC doctors determined that
13 Pedro Madrid had no brain activity, plaintiff Kristal Madrid
14 decided to remove him from life support. Pedro Madrid
15 subsequently died.

16 24. Kristal Madrid is the daughter of decedent Pedro
17 Madrid.

18 25. On September 9, 2009, the Fresno County Coroner
19 completed a report that stated that the "Manner of Death" for
20 Pedro Madrid was "Undetermined" and that the "Cause of Death" for
21 Pedro Madrid was "cardiopulmonary arrest during restraint in a
22 person under the influence of methamphetamine." Plaintiff
23 contends that the underlying conclusion of the Coroner is a
24 disputed fact and that the Coroner's conclusion should not be
25 read to the jury.

26 B. Disputed Facts

27 1. The amount of methamphetamine or other controlled
28 substances/drugs that was in Pedro Madrid's blood at the time

1 that he was detained by Ofcr. Pack or ran from FPD officers.

2 2. Whether Pedro Madrid was under the influence of
3 methamphetamine or other controlled substances at the time that
4 he ran away from FPD officers.

5 3. Whether Pedro Madrid was lawfully detained by Ofcr.
6 Pack; specifically, whether prior to any detention Ofcr. Pack had
7 reasonable suspicion that Pedro Madrid had violated, was
8 violating, or was about to violate the law, or that Pedro Madrid
9 was in need of an involuntary psychiatric confinement.

10 4. Whether Pedro Madrid unlawfully fled from a detention
11 by a police officer (Ofcr. Pack).

12 5. Which specific FPD police officers applied grappling
13 or other forms of force upon Pedro Madrid.

14 6. The relative position of each FPD police officer who
15 applied grappling or other forms of force upon Pedro Madrid with
16 respect to Pedro Madrid's body.

17 7. The relative position of each FPD police officer who
18 applied grappling or other forms of force upon Pedro Madrid with
19 respect to each other.

20 8. The amount and types of force deployed upon Pedro
21 Madrid by defendant officers.

22 9. The amount of weight or downward pressure that was
23 applied to Pedro Madrid's torso by FPD police officers.

24 10. Whether a carotid hold, or comparable pressure to the
25 front of Pedro Madrid's neck, was applied at all or in part by
26 any FPD police officer.

27 11. Whether, while Pedro Madrid was hobbled and in
28 handcuffs, FPD officers rolled Pedro Madrid onto his side before

1 he was observed to be having any respiratory or other medical
2 difficulties.

3 12. Whether the amount and manner of force applied to Pedro
4 Madrid by FPD officers, either singly or in combination, was
5 objectively reasonable under the circumstances.

6 13. Whether the amount and manner of force applied to Pedro
7 Madrid by FPD officers, either singly or in combination, was a
8 substantial factor cause of his cardiac arrest, which eventually
9 resulted in his death.

10 14. Whether Pedro Madrid experienced "excited delirium"
11 that caused him to suffer cardiac arrest, eventually resulting in
12 his death.

13 15. Whether the amount and manner of force applied to Pedro
14 Madrid by FPD officers, either singly or in combination, was
15 consistent with standard constitutional police procedures and
16 practices.

17 16. Whether the amount of force applied to Pedro Madrid by
18 FPD officers, either singly or in combination, was consistent
19 with the policies and practices of the Fresno Police Department.

20 17. The amount, extent, and means of valuation of
21 compensatory, general, and statutory damages to which plaintiff
22 is entitled, if any, in any capacity.

23 18. Whether any of the individual defendants acted with
24 malice, oppression, or fraud sufficient to warrant the imposition
25 of punitive damages.

26 19. The amount, extent, and means of valuation of
27 plaintiff's claims for punitive damages.

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1 IV. DISPUTED EVIDENTIARY ISSUES

2 1. Defendants have filed the following motions *in limine*:

3 (a) Motion to exclude the opinion testimony of
4 plaintiff's expert Werner Spitz, M.D. under *Daubert* [see Dkt.
5 Doc. 52];

6 (b) Motion to exclude the opinion testimony of
7 plaintiff's expert Roger Clark under *Daubert* [see Dkt. Doc. 55];

8 (c) Motion to trifurcate trial into three phases - (1)
9 issues re constitutional/statutory violations by the involved
10 officers, (2) *Monell/Canton* and municipal liability issues, and
11 (3) punitive damages issues - and to exclude evidence by phase
12 [see Mot. *in Limine* no. 1, Dkt. Doc. 71];

13 (d) Motion to exclude evidence of other acts/wrongs by
14 defendants [see Mot. *in Limine* no. 2, Dkt. Doc. 72];

15 (e) Motion to exclude media coverage of incident and
16 lawsuit [see Mot. *in Limine* no. 3, Dkt. Doc. 73];

17 (f) Motion to exclude evidence offered by plaintiff
18 that was not disclosed pursuant to Fed. R. Civ. P. 26 [see Mot.
19 *in Limine* no. 4, Dkt. Doc. 74];

20 (g) Motion to exclude and seal *transcripts* of officer
21 interviews [see Mot. *in Limine* no. 5, Dkt. Doc. 75].

22 2. Defendants further reserve the right to seek exclusion
23 of any inflammatory photographs related to the autopsy of
24 decedent Pedro Madrid, including but not limited to Exhibits 174-
25 198 *infra*.

26 3. Plaintiff expects to submit motions *in limine* regarding
27 the following issues:

28 (a) To exclude, pursuant to Fed. R. Evid. 403 and

1 404(a), all evidence and/or reference to decedent's criminal
2 history, specifically including but not limited to whether Pedro
3 Madrid was on probation or parole at the time of the subject
4 incident, as well as Pedro Madrid's alleged history of narcotics
5 and/or alcohol use; or, in the alternative, to bifurcate trial of
6 liability from trial of damages and to limit evidence of Pedro
7 Madrid's criminal history to the damages phase of trial;

8 (b) To exclude witnesses or evidence not disclosed
9 pursuant to Fed. R. Civ. P. 26 or otherwise made known to
10 plaintiff;

11 (c) To exclude defendant officers from offering expert
12 opinion testimony, except with regard to their training in
13 identifying subjects who appear to be intoxicated and/or
14 impaired;

15 (d) To exclude, pursuant to Fed. R. Evid. 403 and
16 404(a), defendant officers from offering evidence regarding their
17 commendations, medals, or other awards received;

18 (e) To exclude, pursuant to Fed. R. Evid. 403 and
19 404(a), all evidence and/or reference to plaintiff's criminal
20 history (if any).

21 4. Plaintiff reserves the right to supplement or amend her
22 motions *in limine* should further evidentiary issues arise.

23 5. The parties are unaware of other disputes concerning
24 the admissibility of testimony, physical evidence, demonstrative
25 evidence, or the use of special technology such as computer
26 animation or video discs, but reserve the right to file/serve
27 supplemental trial briefs on such matters should they arise.

28 ///

1 V. SPECIAL FACTUAL INFORMATION

2 a. Date, Place, and General Nature of the Incident
3 Constituting the Alleged Basis of Liability.

4 The incident at issue occurred shortly after 12:30 a.m. on
5 January 9, 2007, largely on the 99 Freeway in the City of Fresno,
6 near the Kern Street overpass. The incident at issue involved a
7 detention of Pedro Madrid by Fresno Police Department police
8 officers, followed by a foot pursuit, and a restraint that
9 included the deployment of a TASER device in drive-stun/contact
10 mode and physical strikes. After Pedro Madrid was taken into
11 custody, he developed respiratory problems and suffered cardiac
12 arrest. Plaintiff contends that the involved officers' restraint
13 methods amounted to excessive force and caused Pedro Madrid to
14 suffer cardiac arrest as a result of asphyxiation. Defendants
15 contend that Pedro Madrid's violent resistance necessitated the
16 restraint methods applied, that such were reasonable under the
17 circumstances, and that Pedro Madrid's cardiac arrest was the
18 result of his violent exertions and methamphetamine use (excited
19 delirium). After his cardiac arrest, Pedro Madrid never regained
20 consciousness and his life support was ultimately terminated by
21 plaintiff on January 12, 2007.

22 b. Particular Acts, Omissions, or Conditions Constituting
23 the Basis of any Defense.

24 Defendants contend that the actions of the involved officers
25 regarding Pedro Madrid were reasonable and lawful under the
26 totality of the circumstances because: (1) there was reasonable
27 suspicion to support Pedro Madrid's initial detention due to his
28 unusual conduct suggesting a need for mental-health detention

1 under Cal. Welf. & Inst. Code § 5150; (2) there was probable
2 cause to arrest Pedro Madrid after he admitted to using
3 methamphetamine earlier that evening and after objective
4 examination showed him to be under the influence of a stimulant
5 like methamphetamine, in violation of his felony probation for
6 narcotics violations; (3) it was reasonable and lawful for the
7 involved officers to pursue Pedro Madrid in light of his
8 subsequent flight from custody and the danger he posed to himself
9 and others by running across a busy six-lane freeway at night;
10 (4) it was reasonable and lawful for the involved officers to
11 deploy restraint techniques, grappling techniques, TASER drive-
12 stun deployments, a hand-strike, and baton-like strikes in order
13 to gain Pedro Madrid's compliance with commands and to prevent
14 harm to himself or the officers in light of Pedro Madrid's (a)
15 refusal to show/produce his hands in response to multiple officer
16 commands, (b) kicking, bucking, twisting, and other violent
17 physical resistance that threatened to push Madrid or one of the
18 officers into nearby passing traffic, and (c) lack of
19 response/compliance to lesser applications of force; and (5) the
20 involved officers ceased applying force against Pedro Madrid as
21 soon as his violent resistance to and endangerment of the
22 officers ended. Defendants further contend that the
23 legal/medical cause of Pedro Madrid's cardiac arrest was excited
24 delirium: the result of an overexertion of his body by way of
25 running across a freeway and violent physical resistance against
26 multiple officers' attempts to restrain him while under the
27 influence of methamphetamine and natural chemicals in the body
28 that also place severe strain on the cardiac system.

1 c. Statutes, Ordinances, or Regulations Violated by Either
2 Party.

3 Defendants contend that Pedro Madrid was in violation of
4 California Penal Code § 148(a)(1) [resisting, delaying, or
5 obstructing a peace officer in the discharge of his duties]; §§
6 1203.2(a), 1210.1(f), and 3081 [violation of the terms of his
7 felony probation, including failure to obey all laws, failure to
8 submit to search and seizure, and failure to refrain from using
9 narcotics]; as well as California Vehicle Code §§ 21461.5 and
10 21960(a) [effectively prohibiting pedestrians on the freeway].

11 Plaintiffs contend that defendants violated 42 U.S.C. § 1983
12 and California Civil Code § 52.

13 d. Applicability of the Doctrine of Strict Liability or
14 Res Ipsa Loquitur.

15 Not applicable.

16 e. Decedent's Age, Injuries Sustained or Aggravated,
17 Earnings Issues, and Alleged Damages.

18 Pedro Madrid was 44 during the incident at issue (date of
19 birth May 16, 1962).

20 Decedent was observed with the following injuries by the
21 Fresno County Coroner: 2 linear abrasions to Left side of
22 forehead (4 3/4"; 5/8"); 2 rectangular abrasions on Right side
23 front of abdomen (1/8" x 1/16" each - 1 3/4" apart); 2
24 rectangular abrasions on Right side back (3/16" x 1/16", 1/8" x
25 1/16" - spaced 1 1/2" apart); 2 abrasions Right side back (1/16" x
26 1/16", 3/8" x 1/8" - 1" apart); 1 rectangular abrasion Right side
27 lower back (3/16" x 1/8"); 1 irregular abrasion Right side back
28 (1/2" x 1/4"); 1 abrasion Right side back (3/8" x 1/8"); 3 of these

1 abrasions consistent with TASER ECD use in drive stun and in
2 probe; 1 abrasion Right side back toward middle ($\frac{1}{2}$ " x $\frac{3}{8}$ "); 1
3 abrasion Left side back toward midline ($\frac{3}{8}$ " x $\frac{1}{8}$ "); 1 linear
4 abrasion middle lower back ($\frac{5}{8}$ " x $\frac{1}{2}$ "); and 12 abrasions to the
5 arms and legs.

6 Decedent was not employed on the date of the incident.

7 Decedent's earnings are unknown, but estimated at less than
8 \$20,000 per year.

9 f. Decedent's Physical Condition, Education, and Training.

10 Decedent's pre-incident physical condition is unknown. He
11 was reported to have a high school education. His profession was
12 reported as a part-time carpenter/construction worker.

13 g. Plaintiff's Age, Injuries Sustained or Aggravated,
14 Earnings Issues, and Alleged Damages.

15 Plaintiff Kristal Madrid was born February 20, 1987. She
16 alleges loss of society/guidance and wrongful death damages as
17 well as compensatory damages related to decedent's medical and
18 burial costs. She also seeks statutory damages, punitive
19 damages, costs, and attorneys' fees.

20 h. Dependents' Names, Ages, and Contribution from
21 Decedent.

22 At the time of his death, decedent Pedro Madrid had no
23 dependents. His sole known heir is plaintiff Kristal Madrid, his
24 adult daughter by Pamela Madrid. Plaintiff has testified that
25 she did not receive much if any financial support from decedent
26 during her adult life, other than pocket change.

27 VI. RELIEF SOUGHT

28 1. Plaintiff seeks: (1) general damages of \$10,000,000.00;

1 (2) unspecified special damages; (3) unspecified punitive
2 damages; (4) injunction against any Fresno Police Department
3 officer using excessive and unreasonable force; (5) statutory
4 damages pursuant to Cal. Civ. Code §§ 51.7, 52, 52.1, including
5 \$25,000.00 per offense; (6) attorneys' fees pursuant to Cal. Civ.
6 Code §§ 51.7, 52, 52.1 and to 42 U.S.C. § 1988; and (7) costs of
7 suit. Defendants contend that some of the relief sought by
8 plaintiff is no longer available in light of the Court's grant of
9 partial summary judgment.

10 2. Defendants seek: (a) costs; (b) attorneys' fees as
11 available and appropriate; (c) judgment in favor of defendants on
12 all causes of action.

13 VII. DISPUTED ISSUES OF LAW

14 1. In light of the Court's decision on defendants' motion
15 for summary judgment-adjudication [see Dkt. Doc. 80], plaintiff's
16 remaining claims in this action are as follows:

17 (a) Excessive force in violation of decedent Pedro Madrid's
18 Fourth Amendment rights, pursuant to 42 U.S.C. § 1983 (First
19 Cause of Action against defendants Bell, Gurrola, Lewis, Mendoza,
20 and Valdez);

21 (b) Assault & Battery, presumably in violation of decedent
22 Pedro Madrid's rights presumably under California Civil Code § 43
23 (Fourth Cause of Action against defendants Bell, Gurrola, Lewis,
24 Mendoza, and Valdez);

25 (c) Violation of decedent Pedro Madrid's constitutional
26 rights under California Civil Code § 52.1 by way of: (1)
27 excessive force, and (2) false/unlawful arrest (Sixth Cause of
28 Action against defendants Bell, Gurrola, Lewis, Mendoza, and

1 Valdez); and

2 (d) Negligence resulting in the wrongful death of decedent
3 Pedro Madrid presumably pursuant to California Code of Civil
4 Procedure §§ 377, 377.60, 377.61 and California Civil Code § 3333
5 (Seventh Cause of Action against defendants Bell, Gurrola, Lewis,
6 Mendoza, and Valdez);

7 [See, e.g., Pl.'s 1st Am. Compl., Dec. 14, 2009, Dkt. Doc.
8 37 at 14-15; Pl.'s Opp'n to Defts.' Mot. for Summ. J., Jan. 24,
9 2011, Dkt. Doc. 58 at 32-34; Mem. Decision re Defts.' Mot. Sum.
10 J., Feb. 23, 2011, Dkt. Doc. 80 (granting summary judgment on
11 plaintiff's Fourteenth Amendment claim in the First Cause of
12 Action, supervisory liability claim in the Second Cause of
13 Action, *Monell* liability claim in the Third Cause of Action,
14 racial discrimination in civil rights/Unruh Act claim in the
15 Fifth Cause of Action, and negligent hiring, retention,
16 supervision, training and discipline claim in the Eighth Cause of
17 Action).]

18 Defendants contend that:

19 (a) Plaintiff's claim for excessive force in violation of
20 decedent Pedro Madrid's Fourth Amendment rights, pursuant to 42
21 U.S.C. § 1983 (First Cause of Action against defendants Bell,
22 Gurrola, Lewis, Mendoza, and Valdez) lacks merit because the
23 officers' use of force was objectively reasonable under the
24 circumstances, particularly in light of Pedro Madrid's violent
25 resistance, pursuant to *Graham v. Connor*, 490 U.S. 386 (1989);
26 moreover, even assuming *arguendo* that plaintiff could show that
27 Pedro Madrid's constitutional rights were violated, any mistakes
28 of fact or law were reasonable and the officers are thus entitled

1 to qualified immunity on this claim;

2 (b) Plaintiff's redundant state-law claims for Assault &
3 Battery, presumably in violation of decedent Pedro Madrid's
4 rights under California Civil Code § 43 (Fourth Cause of Action
5 against defendants Bell, Gurrola, Lewis, Mendoza, and Valdez);
6 Violation of decedent Pedro Madrid's constitutional rights under
7 California Civil Code § 52.1 by way of: (1) excessive force, and
8 (2) false/unlawful arrest (Sixth Cause of Action against
9 defendants Bell, Gurrola, Lewis, Mendoza, and Valdez); and
10 Negligence resulting in the wrongful death of decedent Pedro
11 Madrid presumably pursuant to California Code of Civil Procedure
12 §§ 377, 377.60, 377.61 and California Civil Code § 3333 (Seventh
13 Cause of Action against defendants Bell, Gurrola, Lewis, Mendoza,
14 and Valdez) all lack merit for the same reasons that plaintiff's
15 federal excessive force and unlawful detention/arrest claims lack
16 merit - namely, the officers' use of force was objectively
17 reasonable under the circumstances and the officers had
18 reasonable suspicion to detain and then probable cause to arrest
19 Pedro Madrid prior to his flight, thus as no constitutional
20 violations were committed, these state torts could not have been
21 committed either pursuant to *Martinez v. County of Los Angeles*,
22 47 Cal.App.4th 334, 349-350 (1996).

23 (c) the involved officers' conduct with regard to Pedro
24 Madrid was reasonable and lawful under the circumstances, and
25 accordingly neither decedent's nor plaintiff's constitutional
26 rights were violated during the incident at issue;

27 (d) defendants are immune from liability for plaintiff's
28 state-law claims because the individual officers did not violate

1 decedent's constitutional rights during the incident pursuant to
 2 Cal. Gov. Code §§ 815.2, 820.2, and 820.4;

3 (e) defendants' acts or omissions were not the
 4 legal/medical cause of Pedro Madrid's death;

5 (f) As a result of these facts, defendants contend that
 6 they are entitled to judgment in their favor.

7 VIII. ABANDONED ISSUES

8 1. Defendants reserve the right to assert at trial all
 9 affirmative defenses raised in defendants' answers.

10 IX. WITNESSES

11 The parties anticipate calling the following witnesses to testify at the time of
 12 trial, subject to any *in limine* orders of the Court or objections of the parties:

#	<i>Witness Name</i>	<i>Testimony Form</i>	<i>Expected Testimony Substance & Type</i>	<i>Time Estimate - Plaintiff</i>	<i>Time Estimate - Defendant</i>
1.	CHP Ofcr. Dusten Dimmer	In Person	Re prior encounter with Pedro Madrid hours before FPD incident; Lay	20-40 mins.	10-20 mins.
2.	FPD Ofcr. Nathan Carr	In Person	Re prior fight by Madrid hours before FPD incident; Lay	30-50 mins.	15-25 mins.
3.	FPD Ofcr. Nick El-Helou	In Person	Re prior fight by Madrid hours before FPD incident; Lay	30-50 mins.	15-25 mins.
4.	FPD Sgt. Michael Maguire	In Person	Re prior encounter with Pedro Madrid minutes before FPD incident as well as reports during	60-80 mins.	30-40 mins.

#	Witness Name	Testimony Form	Expected Testimony Substance & Type	Time Estimate - Plaintiff	Time Estimate - Defendant
			FPD incident; Lay		
5.	FPD Ofcr. Ronnie Pack	In Person	Re initial encounter with Pedro Madrid before flight during incident; Lay	60-80 mins.	30-40 mins.
6	FPD Ofcr. David Lambert	In Person	Re initial encounter with Pedro Madrid before flight during incident; Lay	20-30 mins.	10-15 mins.
7.	Def't Ofcr. Monty Lewis	In Person	Re Pedro Madrid pursuit and restraint incident; Lay	100-120 mins.	50-60 mins.
8.	Def't Ofcr. Juan Gurrola	In Person	Re Pedro Madrid pursuit and restraint incident; Lay	100-120 mins.	50-60 mins.
9.	Def't Ofcr. George Valdez	In Person	Re Pedro Madrid restraint incident; Lay	60-80 mins.	30-40 mins.
10	Def't Ofcr. Frank Mendoza	In Person	Re Pedro Madrid restraint incident; Lay	60-80 mins.	30-40 mins.
11	FPD Ofcr. Dominic Alvarado	In Person	Re Pedro Madrid restraint incident and life-saving measures; Lay	80-100 mins.	40-50 mins.
12	Def't Ofcr. Justin Bell	In Person	Re Pedro Madrid	60-80 mins.	30-40 mins.

#	<i>Witness Name</i>	<i>Testimony Form</i>	<i>Expected Testimony Substance & Type</i>	<i>Time Estimate - Plaintiff</i>	<i>Time Estimate - Defendant</i>
			restraint incident; Lay		
13	FPD Ofcr. Bradley Bailey	In Person	Re Pedro Madrid life-saving measures during incident; Lay	30-50 mins.	15-25 mins.
14	FPD Ofcr. Gene Johnson	In Person	Re Pedro Madrid restraint incident; Lay	30-50 mins.	15-25 mins.
15	FPD Sgt. Richard DeJong	In Person	Re on scene reporting on Pedro Madrid incident	30-50 mins.	15-25 mins.
16	FFD Capt. Timothy Pilegard	In Person	Re firefighter deployment and life-saving measures on Pedro Madrid	50-70 mins.	25-35 mins.
17	FFD FF. Eric Hanson	In Person	Re firefighter deployment and life-saving measures on Pedro Madrid	30-50 mins.	15-25 mins.
18	FFD FF. Christopher Rocca	In Person	Re firefighter deployment and life-saving measures on Pedro Madrid	30-50 mins.	15-25 mins.
19	FFD FF. Frank Silva	In Person	Re firefighter deployment and life-saving measures on Pedro Madrid	30-50 mins.	15-25 mins.
20	FPD Lt. Dennis Montejano	In Person	FPD Use of Force Policies, Procedures, and Training	30-50 mins.	15-25 mins.

#	<i>Witness Name</i>	<i>Testimony Form</i>	<i>Expected Testimony Substance & Type</i>	<i>Time Estimate - Plaintiff</i>	<i>Time Estimate - Defendant</i>
21	Dep. Coroner Loretta Andrews	In Person if Available, or by Report	Autopsy of Pedro Madrid	30-50 mins.	15-25 mins.
22	Pl. Kristal Madrid	In Person	Damages; Lay	160-180 mins.	80-90 mins.
23	Kristi Barbosa	In Person	Pedro Madrid medical history; Lay	80-100 mins.	40-50 mins.
24	Pamela Madrid	In Person	Pedro Madrid medical history; Lay	50-70 mins.	25-35 mins.
25	Dr. Werner Spitz (Subject to Δ 's MIL/ <i>Daubert</i>)	In Person	Medical issues re Pedro Madrid; Π 's Expert	120-140 mins.	60-70 mins.
26	Roger Clark (Subject to Δ 's MIL/ <i>Daubert</i>)	In Person	Standard Police Practices and Procedures; Π 's Expert	90-110 mins.	45-55 mins.
27	Dr. Richard Clark	In Person	Cause of death for Pedro Madrid, pharmacology issues; Δ 's Expert	70-80 mins.	30-40 mins.
28	Dr. Theodore Chan	In Person	Positional asphyxia and medical issues re Pedro Madrid; Δ 's Expert	60-80 mins.	30-40 mins.
29	Robert Fonzi	In Person	Standard Police Practices and Procedures; Δ 's Expert	80-100 mins.	40-50 mins.

#	<i>Witness Name</i>	<i>Testimony Form</i>	<i>Expected Testimony Substance & Type</i>	<i>Time Estimate - Plaintiff</i>	<i>Time Estimate - Defendant</i>
30	Fresno County Coroner David Hadden	In Person	Autopsy of Pedro Madrid	30-50 mins.	15-25 mins.
31	Jason P. Tenyenhuis, Paramedic American Ambulance Company, 2911 E. Tulare, Fresno, CA 93721	In Person	Regarding medical treatment and transport of decedent	30-50 mins.	
32	Nancy Hollier, EMT, American Ambulance Company, 2911 E. Tulare, Fresno, CA 9371	In Person	Regarding medical treatment and transport of decedent	30-50 mins.	
33	Kurt R. Kindig, American Ambulance Company, 2911 E. Tulare, Fresno, CA 93721	In Person	Regarding medical treatment and transport of decedent	30-50 mins.	
34	Venu Gopal, M.D. Chief Forensic Pathologist Fresno County Coroner, 760 w. Nielsen, Fresno, Ca 93706	In Person	Autopsy of Pedro Madrid	30-50 mins.	
35	FPD Officer Bernard Finley	In Person	Re fight between Pedro Madrid and	30-50 mins.	
36	FPD Officer Amber Tumoine-Mendoza	In Person	Transcript of Witness Interview of Officer Amber Tumoine-Mendoza by Detective Villalvazo and Detective Yee taken at 0925 hours	30-50 mins.	
37	Michael Burrow,	In Person	Law	30-50	

#	<i>Witness Name</i>	<i>Testimony Form</i>	<i>Expected Testimony Substance & Type</i>	<i>Time Estimate - Plaintiff</i>	<i>Time Estimate - Defendant</i>
	Fresno Police Dept., 2323 Mariposa Mall, Fresno, CA 93721		Enforcement Report From Fresno Police Department Supplement - Case No. 07-002381 Created on 01/14/07 Suspect - Pedro Madrid Officers Michael Burrow #ID47	mins.	
38	Santos Arande, 2244 E. Brown, Fresno, CA 93706	In Person	Argument between suspects Arambe, Santos and Madrid, Pedro Event 07-AA9838	30-50 mins.	
39	Scott Douglas Durham, Fresno Police Department, 2323 Mariposa Mall, Fresno, CA 93721	In Person	Law Enforcement Report From Fresno Police Department Supplement - Case No. 07-002381 created on 01/09/07 Suspect - Pedro Madrid Officer D. Scott Durham	30-50 mins.	
40	Bernard Finley, Fresno Police Department	In Person	Officer written interview notes re: fight between Pedro Madrid and Santos Arambe on 01/08/07 Reported by Officer N. Carr and B. Finley	30-50 mins.	
41	Darla Gilbert,	In Person	Law	30-50	

#	<i>Witness Name</i>	<i>Testimony Form</i>	<i>Expected Testimony Substance & Type</i>	<i>Time Estimate - Plaintiff</i>	<i>Time Estimate - Defendant</i>
	Fresno Police Department		Enforcement Report From Fresno Police Department Supplement - Case No. 07-002381 created on 01/14/09 Suspect - Pedro Madrid Officer Darla Gilbert #T49	mins.	
42	David M. Hadden, M.D., Fresno County Coroner	In Person	Autopsy of Pedro Madrid	30-50 mins.	
43	Sgt. David Madrigal, Fresno Police Department, Homicide Supervisor	In Person	On scene supervisor on Pedro Madrid Incident	30-50 mins.	
44	Francisco D. Mendoza, Fresno Police Department	In Person	Re Pedro Madrid restraint incident; Lay	60-80 mins.	
45	Derek Scott, Fresno Police Department	In Person	Law Enforcement Report From Fresno Police Department created 01/16/07; Supplement - Case No. 07-002381 (2 page) re Standby crime scene; Created on 01/16/07 Suspect - Pedro Madrid Officers S. Scott Shepard #P706	30-50 mins.	
46	Shepard S. Scott, Fresno Police	In Person	Law Enforcement	30-50 mins.	

#	<i>Witness Name</i>	<i>Testimony Form</i>	<i>Expected Testimony Substance & Type</i>	<i>Time Estimate - Plaintiff</i>	<i>Time Estimate - Defendant</i>
	Department		Report From Fresno Police Department created 1/16/07; Supplement - Case No. 07-002381 (2 page) re Standby crime scene; Created on 01/16/07 Suspect - Pedro Madrid Officers S. Scott Shepard #P706		
47	Amber Mendoza, Fresno Police Department	In Person		30-50 mins.	
48	Det. Ray Villalvazo, Primary Homicide Investigator, Fresno Police Department	In Person	On scene investigator on Pedro Madrid incident	60-80 mins.	
49	Det. Mark Yee, Fresno Police Department, Assisting Homicide Investigator	In Person	Interviews of witnesses; Fresno Police Department Follow Up Report dated 01/04/07 Case No. 07-2381 Reporting Officer - Detective Mark Yee; Type of Report - Additional information	60-80 mins.	
50	Lt. R. Dobbins, Fresno Police Department, Street Violence Commander	In Person			

#	<i>Witness Name</i>	<i>Testimony Form</i>	<i>Expected Testimony Substance & Type</i>	<i>Time Estimate - Plaintiff</i>	<i>Time Estimate - Defendant</i>
51	Officer C. Janca, Fresno Police Department	In Person	Assisting officer On scene on Pedro Madrid Incident	30-50 mins.	
52	Officer M. Hansen, Fresno Police Department	In Person	Assisting officer on scene on Pedro Madrid Incident	30-50 mins.	
53	Officer J. Lyon, Fresno Police Department	In Person	Assisting officer on scene on Pedro Madrid	30-50 mins.	
54	Officer W. Wyatt, Fresno Police Department	In Person	Assisting officer on scene on Pedro Madrid incident	30-50 mins.	
55	Officer B. Haga, Fresno Police Department	In Person	Assisting officer on scene on Pedro Madrid Incident	30-50 mins.	
56	Officer M. Martin, Fresno Police Department	In Person	Assisting officer on scene on Pedro Madrid incident	30-50 mins.	
57	Officer J. Cardenas, Fresno Police Department	In Person	Assisting officer on scene on Pedro Madrid Incident	30-50 mins.	
58	Officer M. Fortune, Fresno Police Department	In Person	Assisting officer on scene on Pedro Madrid Incident	30-50 mins.	
59	Officer M. Barron, Fresno Police Department	In Person	Assisting officer on scene on Pedro Madrid	30-50 mins.	

#	<i>Witness Name</i>	<i>Testimony Form</i>	<i>Expected Testimony Substance & Type</i>	<i>Time Estimate - Plaintiff</i>	<i>Time Estimate - Defendant</i>
			incident		
60	CSO F. Siskey, Fresno Police Department	In Person	Assisting Southwest CSO on scene on Pedro Madrid incident	30-50 mins.	
61	Cadet B. Debord	In Person	Assisting Southwest Cadet	30-50 mins.	
62	ID Tech D. Durham		Scene Photographs/Sketch; Law Enforcement Report From Fresno Police Department Supplement - Case No. 07-002381 created on 01/09/07 Suspect - Pedro Madrid; Officer D. Scott Durham #ED22; Fresno Police Department Diagram dated 01/09/07 Reporting Officer Detective D.S. Durham Case No. 07-2381 Diagram of Kern St. Overpass (Not to Scale)	30-50 mins.	
63	C.Nunes, Fresno Fire Department	In Person	On scene on Pedro Madrid incident	30-50 mins.	
64	C. Fern/sc, Fresno Police Department	In Person	Fresno Police Department Follow Up	30-50 mins.	

#	<i>Witness Name</i>	<i>Testimony Form</i>	<i>Expected Testimony Substance & Type</i>	<i>Time Estimate - Plaintiff</i>	<i>Time Estimate - Defendant</i>
			Report dated 01/09/07 Case No. 07-2381 Reporting Officer C. Fern; Type of Report - Follow Up		
65	Jeff Gentry, Fresno County Coroner's Office Forensic Technician	In Person	Re autopsy of Pedro Madrid	30-50 mins.	
66	Officer J. Ruelas, Fresno Police Department	In Person	Assisting personnel autopsy of Pedro Madrid	30-50 mins.	

Counsel are each ordered to submit a list of witnesses to the court along with a copy for use by the Courtroom Deputy Clerk, on the same date and at the same time as the list of exhibits are to be submitted as ordered below.

CAUTION

Counsel are cautioned that expert witnesses, including percipient experts, must be designated as such. No witness, not identified as a witness in this order, including "rebuttal" witnesses, will be sworn or permitted to testify at trial.

X. EXHIBITS, SCHEDULES AND SUMMARIES

The following is a list of documents or other exhibits that the parties expect to offer at trial.

CAUTION

Only exhibits so listed will be permitted to be offered into evidence at trial, except as may be otherwise provided in this

1 order. No exhibit not designated in this pretrial order shall be
2 marked for identification or admitted into evidence at trial.

- 3 1. The parties anticipate that the following exhibits may be offered into
4 evidence at the time of trial, subject to any *in limine* orders of the
5 Court or objections of the parties:

6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26	<i>Ex. No.</i>	<i>Tab- ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
	1.	1	TASER International, Inc. Product Warnings dated 08/28/06, re: Operational Safety, Deployment Warnings, Health Risks and Maintenance		
	2.	8	Law Enforcement Report Form Fresno Police Department - Case No. 07-002381 created on 01/09/07 re Suspect - Pedro Madrid by Officer Ronnie Pack #P938		
	3.	9	Law Enforcement Report From Fresno Police Department Supplement - Case No. 07-002381 created on 01/09/07 Suspect - Pedro Madrid Officer D. Scott Durham #ID22		
	4.	10	Law Enforcement Report From Fresno Police Department Supplement - Case No. 07-002381 created on 01/14/09 Suspect - Pedro Madrid Officer Darla Gilbert #T49		
	5.	11	Law Enforcement Report From Fresno Police Department Supplement - Case No. 07-002381 Created on 01/14/07 Suspect - Pedro Madrid Officers Michael Burrow #ID47		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
6.	12	Law Enforcement Report From Fresno Police Department created 1/16/07; Supplement - Case No. 07-002381 (2 page) re Standby crime scene; Created on 01/16/07 Suspect - Pedro Madrid Officers S. Scott Shepard #P706		
7.	13	Central Valley Toxicology Toxicology Report Results re: Per Madrid; CVT 07-1509; dated 01/18/07		
8.	15	Records from American Ambulance re: decedent Pedro Madrid; Affidavit of Custodian of Records Billing Summary Itemized Statement Patient Report		
9.	16	County of Fresno Coroners Office 22 page fax dated 09/09/09 Fax containing: Coroner's Report dated 01/12/07 re: Pedro Madrid Fresno Coroner Case #07-01.137		
10.	18-1	Incident Scene Photo: marker re in-custody incident 7-2381, 01/09/07, 0500		
11.	18-2	Incident Scene Photo: wider angle of curb and west embankment on 99 Freeway (S/B) with evidence marker #2 and red box first aid kit in view, 01/09/07 night		
12.	18-3	Incident Scene Photo: close-up of pen on west roadway of 99 Freeway (S/B) with evidence marker #1, 01/09/07 night		
13.	18-4	Incident Scene Photo: west embankment, curb, emergency lane, evidence marker #1, and patrol car and unidentified person on 99 Freeway (S/B), 01/09/07 night		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
14.	18-5	Incident Scene Photo: west embankment, curb, emergency lane, evidence marker #1 and evidence marker #2, and patrol car and unidentified person on 99 Freeway (S/B), 01/09/07 night		
15.	18-6	Incident Scene Photo: wider angle west embankment, curb, emergency lane, evidence marker #1 and evidence marker #2, and patrol car and unidentified person on 99 Freeway (S/B), south of overpass, 01/09/07 night		
16.	18-7	Incident Scene Photo: wider angle west embankment, curb, emergency lane, evidence marker #1 and evidence marker #2, and patrol car and unidentified person on 99 Freeway (S/B), south of overpass, showing overpass and street light, 01/09/07 night		
17.	18-8	Incident Scene Photo: close-up of curb and west embankment on 99 Freeway (S/B) with evidence marker #2, 01/09/07 night		
18.	18-9	Incident Scene Photo: Union Bank of California on Kern Street, near F Street, building front view, 01/09/07 night		
19.	18-10	Incident Scene Photo: Union Bank of California on Kern Street, near F Street, building side view with sidewalk, 01/09/07 night		
20.	18-11	Incident Scene Photo: Union Bank of California on Kern Street, near F Street, building side view with sidewalk, alternate view, 01/09/07 night		
21.	18-12	Incident Scene Photo: on top of Kern Street overpass of 99 Freeway, wide angle, 01/09/07 night		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
22.	18-13	Incident Scene Photo: on top of Kern Street overpass of 99 Freeway, wide angle reverse view, 01/09/07 night		
23.	18-14	Incident Scene Photo: on top of Kern Street overpass of 99 Freeway, fence adjacent to embankment, 01/09/07 night		
24.	18-15	Incident Scene Photo: on top of Kern Street overpass of 99 Freeway, fence adjacent to embankment, alternate angle, 01/09/07 night		
25.	18-16	Incident Scene Photo: on top of Kern Street overpass of 99 Freeway, close-up of fence adjacent to east embankment, 01/09/07 night		
26.	18-17	Incident Scene Photo: on top of Kern Street overpass of 99 Freeway, looking down embankment from top of overpass, 01/09/07 night		
27.	18-18	Incident Scene Photo: miscellaneous foilage close up, 01/09/07 night		
28.	18-19	Incident Scene Photo: wider angle of curb and west embankment on 99 Freeway (S/B) with evidence marker #2, S/B POV from under overpass, 01/09/07 night		
29.	18-20	Incident Scene Photo: close-up of red box first aid kit on embankment of 99 Freeway, 01/09/07 night		
30.	18-21	Incident Scene Photo: lateral view of 99 Freeway lanes with center divider, side view, 01/09/07 night		
31.	18-22	Autopsy Photo: marker re in custody death 07-2381, 01/14/07, 0910 (pre-autopsy)		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
32.	18-23	Autopsy Photo: Pedro Madrid, view of left side of entire body, wide angle, 01/14/07		
33.	18-24	Autopsy Photo: Pedro Madrid, view of right side of body from thigh up, 01/14/07		
34.	18-25	Autopsy Photo: Pedro Madrid, view of right side of body from thigh down, 01/14/07		
35.	18-26	Autopsy Photo: Pedro Madrid, close-up view of face with breathing tube and tape, 01/14/07		
36.	18-27	Autopsy Photo: Pedro Madrid, close-up view of face without breathing tube/tape, 01/14/07		
37.	18-28	Autopsy Photo: Pedro Madrid, wide view of back, 01/14/07		
38.	18-29	Autopsy Photo: Pedro Madrid, wide view of mid-back and buttocks, 01/14/07		
39.	18-30	Autopsy Photo: Pedro Madrid, wide view of buttocks and legs, 01/14/07		
40.	18-31	Autopsy Photo: Pedro Madrid, close-up view of left-side of chest at collarbone, 01/14/07		
41.	18-32	Autopsy Photo: Pedro Madrid, close-up view of left side of face and forehead, 01/14/07		
42.	18-33	Autopsy Photo: Pedro Madrid, close-up view of left forearm and front mid-section, 01/14/07		
43.	18-34	Autopsy Photo: Pedro Madrid, close-up view of left hand and wrist, 01/14/07		
44.	18-35	Autopsy Photo: Pedro Madrid, close-up view of left wrist, 01/14/07		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
45.	18-36	Autopsy Photo: Pedro Madrid, wide view of left elbow and left forearm, 01/14/07		
46.	18-37	Autopsy Photo: Pedro Madrid, close-up view of left elbow, 01/14/07		
47.	18-38	Autopsy Photo: Pedro Madrid, front view of legs from thigh down, from left, 01/14/07		
48.	18-39	Autopsy Photo: Pedro Madrid, right foot with toe tag, 01/14/07		
49.	18-40	Autopsy Photo: Pedro Madrid, left foot, 01/14/07		
50.	18-41	Autopsy Photo: Pedro Madrid, front view of legs from thigh down, from right, 01/14/07		
51.	18-42	Autopsy Photo: Pedro Madrid, wide view of right side of torso, right arm and genitals, 01/14/07		
52.	18-43	Autopsy Photo: Pedro Madrid, close-up view of right side of rib cage with ECD contact marks, 01/14/07		
53.	18-44	Autopsy Photo: TASER X-26 model electronic control device (ECD) on table, 01/14/07		
54.	18-45	Autopsy Photo: TASER X-26 model ECD aligned view of right side of rib cage with ECD contact marks, close up, 01/14/07		
55.	18-46	Autopsy Photo: TASER X-26 model ECD aligned view of right side of rib cage with ECD contact marks, wider angle, 01/14/07		
56.	18-47	Autopsy Photo: TASER X-26 model ECD, rear view, 01/14/07		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
57.	18-48	Autopsy Photo: Pedro Madrid, close-up of left side of back, 01/14/07		
58.	18-49	Autopsy Photo: Pedro Madrid, close-up of left shoulder from back with ECD contact marks, 01/14/07		
59.	18-50	Autopsy Photo: Pedro Madrid, extreme close-up of left shoulder from back with ECD contact marks, 01/14/07		
60.	18-80	Officer Photos: marker re in custody death 7-2381, 01/09/07		
61.	18-81	Officer Photos: Justin Bell, front, 01/09/07		
62.	18-82	Officer Photos: Justin Bell, left, 01/09/07		
63.	18-83	Officer Photos: Justin Bell, right, 01/09/07		
64.	18-84	Officer Photos: Justin Bell, back, 01/09/07		
65.	18-85	Officer Photos: Ronnie Pack, front, 01/09/07		
66.	18-86	Officer Photos: Ronnie Pack, left, 01/09/07		
67.	18-87	Officer Photos: Ronnie Pack, right, 01/09/07		
68.	18-88	Officer Photos: Ronnie Pack, back, 01/09/07		
69.	18-89	Officer Photos: Frank Mendoza, front, 01/09/07		
70.	18-90	Officer Photos: Frank Mendoza, right, 01/09/07		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
71.	18-91	Officer Photos: Frank Mendoza, left, 01/09/07		
72.	18-92	Officer Photos: Frank Mendoza, rear, 01/09/07		
73.	18-93	Officer Photos: Dominic Alvarado, front, 01/09/07		
74.	18-94	Officer Photos: Dominic Alvarado, left, 01/09/07		
75.	18-95	Officer Photos: Dominic Alvarado, right, 01/09/07		
76.	18-96	Officer Photos: Dominic Alvarado, rear, 01/09/07		
77.	18-97	Officer Photos: Amber Timoine-Mendoza, front, 01/09/07		
78.	18-98	Officer Photos: Amber Timoine-Mendoza, left, 01/09/07		
79.	18-99	Officer Photos: Amber Timoine-Mendoza, right, 01/09/07		
80.	18-100	Officer Photos: Amber Timoine-Mendoza, rear, 01/09/07		
81.	18-101	Officer Photos: Juan Gurrola, front, 01/09/07		
82.	18-102	Officer Photos: Juan Gurrola, left, 01/09/07		
83.	18-103	Officer Photos: Juan Gurrola, right, 01/09/07		
84.	18-104	Officer Photos: Juan Gurrola, rear, 01/09/07		
85.	18-105	Officer Photos: Monty Lewis, front, 01/09/07		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
86.	18-106	Officer Photos: Monty Lewis, right, 01/09/07		
87.	18-107	Officer Photos: Monty Lewis, left, 01/09/07		
88.	18-108	Officer Photos: Monty Lewis, rear, 01/09/07		
89.	18-109	Officer Photos: David Lambert, front, 01/09/07		
90.	18-110	Officer Photos: David Lambert, left, 01/09/07		
91.	18-111	Officer Photos: David Lambert, right, 01/09/07		
92.	18-112	Officer Photos: David Lambert, rear, 01/09/07		
93.	18-113	Officer Photos: Officer Michael Hansen, front, 01/09/07		
94.	18-114	Officer Photos: Officer Michael Hansen, left, 01/09/07		
95.	18-115	Officer Photos: Officer Michael Hansen, right, 01/09/07		
96.	18-116	Officer Photos: Officer Michael Hansen, rear, 01/09/07		
97.	18-117	Officer Photos: Brad Bailey, front, 01/09/07		
98.	18-118	Officer Photos: Brad Bailey, left, 01/09/07		
99.	18-119	Officer Photos: Brad Bailey, right, 01/09/07		
100.	18-120	Officer Photos: Brad Bailey, rear, 01/09/07		
101.	18-121	Officer Photos: George Valdez, front, 01/09/07		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
102.	18-122	Officer Photos: George Valdez, left, 01/09/07		
103.	18-123	Officer Photos: George Valdez, right, 01/09/07		
104.	18-124	Officer Photos: George Valdez, rear, 01/09/07		
105.	19	Records from American Ambulance, 01/09/07		
106.	20	TASER Downloads Serial No. X00-173191 Model X26 Report Generated: 10/21/09		
107.	21	Fresno Police Department Crime Scene Log Report No. 07-2381 Date of Report: 01/09/07 <i>Δ OBJECTS: Relevance</i>		
108.	22	Fresno Police Department Supplement Law Enforcement Report Form Event 07AA9992 Case No. 07-002381 Created on 09/18/09 by Officer Burrow, Michael re Digital Photographs of the Scene		
109.	23	Fresno Police Department Supplement Law Enforcement Report Form Event 07AA9992 Case No. 07-002381 Created on 09/23/09 by Officer Burrow, Michael re: Digital Aerial Photographs of the Scene		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
110.	25	Fresno Police Department Officer Involved Shooting and In Custody Death Notification dated 01/09/07 (NOTE: redacted for officers' personal contact info)		
111.	26	Fresno Police Department Follow Up Report dated 01/04/07 Case No. 07-2381 Reporting Officer - Detective Mark Yee Type of Report - Additional information		
112.	27	Fresno Police Department Follow Up Report dated 01/09/07 Case No. 07-2381 Reporting Officer C. Fern Type of Report - Follow Up		
113.	28	Fresno Police Department Diagram dated 01/09/07 Reporting Officer Detective D.S. Durham Case No. 07-2381 Diagram of Kern St. Overpass (Not to Scale)		
114.	29	Officer written interview notes re: fight between Pedro Madrid and Santos Arambe on 01/08/07 Reported by Officer N. Carr and B. Finley		
115.	30	Fresno Police Department Property and Evidence Report dated 01/08/07 Booking Officer - Pack, Ronnie Suspect - Pedro Madrid Agency No. 072381		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
116.	31	California Highway Patrol Centralized CAD Journaling System dated 01/08/07 Completed Incident Search		
117.	32	Fresno Sheriff's Department Booking photo of Pedro Carlos Madrid Booking No. FPD 129656 Arrest date - 12/13/06		
118.	33	Pedro Carlos Madrid - Rap Sheet Criminal History Report dated 01/09/07		
119.	34	Pedro Carlos Madrid - DMV Record dated 01/09/07		
120.	35	Fresno Police Department - Master Name Summary - Pedro C. Madrid		
121.	36	Pete Madrid 216241 2005 Probation information Probation Officer Lori Tarazon		
122.	37	Fresno Police Department - Event Report dated 01/09/07 re: Argument between suspects Arambe, Santos and Madrid, Pedro Event 07-AA9838		
123.	38	Fresno Police Department - Event Report dated 01/09/07 Event 07-AA9992		
124.	45	Transcript of Witness Interview of Sgt. M. Maguire by Detective Villalvazo and Detective Yee Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		

Ex. No.	Tab- ID No.	Exhibit Description	<i>Date Entered & Ct. I.D. No.</i>	Date Admitted
125.	46	Transcript of Witness Interview of Officer Ron Pack by Detectives Villalvazo and Detective Yee taken at 0703 hours Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
126.	47	Transcript of Witness Interview of Officer Mike Hansen by Detective Villalvazo and Detective Yee taken 1723 hours Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
127.	48	Transcript of Witness Interview of Officer David Lambert by Detective Villalvazo and Detective Yee taken at 0745 hours Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
128.	49	Transcript of Witness Interview of Sgt. Richard N. DeJong by Detective Villalvazo and Detective Yee taken at 0809 hours Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		

Ex. No.	Tab- ID No.	Exhibit Description	<i>Date Entered & Ct. I.D. No.</i>	Date Admitted
129.	50	Transcript of Witness Interview of Officer Gene Johnson by Detective Villalvazo and Detective Yee taken at 0835 hours Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
130.	51	Transcript of Witness Interview of Officer Bradley Matthew Bailey by Detective Villalvazo and Detective Yee taken at 0857 hours Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
131.	52	Transcript of Witness Interview of Officer Amber Tumoine- Mendoza by Detective Villalvazo and Detective Yee taken at 0925 hours Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
132.	53	Transcript of Witness Interview of Officer Nathan Carr by Detective Villalvazo and Detective Yee taken at 0944 hours Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		

Ex. No.	Tab- ID No.	Exhibit Description	<i>Date Entered & Ct. I.D. No.</i>	Date Admitted
133.	54	Transcript of Witness Interview of Officer Nick El-Helou by Detective Villalvazo and Detective Yee taken at 0953 hours Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
134.	55	Transcript of Witness Interview of Officer Bernard Finley by Detective Villalvazo and Detective Yee taken at 1002 hours on 01/09 Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
135.	56	Transcript of Witness Interview of Officer Francisco Mendoza by Detective Villalvazo and Detective Yee taken 01/09/07 at 1233 hours Also present Marshall Hodgkins Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
136.	57	Transcript of Witness Interview of Officer Dominic Joaquin Alvarado by Detective Villalvazo and Detective Yee taken at 1307 hours Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		

Ex. No.	Tab- ID No.	Exhibit Description	<i>Date Entered & Ct. I.D. No.</i>	Date Admitted
137.	58	<p>Transcript of Witness Interview of Officer J. Gurrola by Detective Villalvazo and Detective Yee taken at 1343 hours</p> <p>Case No. 07-2381</p> <p><i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i></p>		
138.	59	<p>Transcript of Witness Interview of Officer Justin Bell by Detective Villalvazo and Detective Yee taken at 1404 hours</p> <p>Case No. 07-2381</p> <p><i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i></p>		
139.	60	<p>Transcript of Interview of Officer Monty Lewis by Detective Villalvazo and Detective Yee taken @ 2:34 hours</p> <p>Present also Rep. Marshall Hodgkins.</p> <p>Case No. 07-2381</p> <p><i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i></p>		
140.	61	<p>Transcript of Witness Interview of Officer Dusten Dimmer (erroneously named as Dustin Dimer) by Detective Villalvazo and Detective Castellanos also present Sgt. Maxfield, CHP</p> <p>Case No. 07-2381</p> <p><i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i></p>		

Ex. No.	Tab- ID No.	Exhibit Description	<i>Date Entered & Ct. I.D. No.</i>	Date Admitted
141.	62	<p>Transcript of Witness Interview of FF Frank Silva, Fresno Fire Department by Detective Villalvazo and Detective Yee taken @ 4:31 pm Case No. 07-2381</p> <p><i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i></p>		
142.	63	<p>Transcript of Witness Interview of FF Eric Hanson, Fresno Fire Department by Detectives Villalvazo and Detective Yee taken @ 3:57 pm Case No. 07-2381</p> <p><i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i></p>		
143.	64	<p>Transcript of Witness Interview of Christopher Rocca, Fresno Fire Department by Detectives Villalvazo and Detective Yee taken @ 4:16 pm Case No. 07-2381</p> <p><i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i></p>		
144.	65	<p>Transcript of Interview of Captain Timothy Pilegard, Fresno Fire Department by Detectives Villalvazo, Detective Yee, Senior Investigator Ben Castellanos (DA's off.) and Senior Investigator Jody O'Neil (DA's off.) taken on 1/17/07 @ 3:44 pm Case No. 07-2381</p> <p><i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i></p>		

Ex. No.	Tab- ID No.	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
145.	66	Transcript of Witness Interview of Officer Mike Hansen by Detectives Villalvazo and Detective Yee taken @ 1723 hours. Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
146.	67	Transcript of Interview of Officer George Valdez by Detective Villalvazo and Detective Yee taken on 1/9/07 @ 1153. Also present Representative Marshall Hodgkins. Case No. 07-2381 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE; SUBJECT TO Δ'S MIL NO. 5</i>		
147.	68	Fresno Regional Skills Training Center Use of Force Update CNN: 1520-21185 Expanded Outline		
148.	69	Electronic Weapons Operator Course – Course Outline		
149.	72	Fresno Police Department Individual Training Activity for: Officer Justin D. Bell dated 11/03/09		
150.	73	Fresno Police Department Individual Training Activity for: Officer Juan S. Gurrola dated 11/03/09		
151.	74	Fresno Police Department Individual Training Activity for: Officer Monty R. Lewis, Jr. dated 11/03/09		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
152.	75	Fresno Police Department Individual Training Activity for: Officer Francisco D. Mendoza dated 11/03/09		
153.	76	Fresno Police Department Individual Training Activity for: Officer Ronnie Pack dated 11/03/09		
154.	78	Fresno Police Department Individual Training Activity for: Officer George Valdez dated 11/03/09		
155.	80	Fresno Police Department Standing Order 2.5.2 Chapter - General Rules of Conduct Topic - Use of Force dated 03/15/06		
156.	81	Fresno Police Department Standing Order 2.5.8 Chapter - General Rules of Conduct Topic - Electro Muscular Disruption Devices dated 06/16/06		
157.	82	Fresno Police Department Standing Order 2.5.10 Chapter: General Rules of Conduct Topic: Force Options & Training dated 11/15/06		
158.	83	Fresno Police Department Standing Order 2.8.1 Chapter - Personal Equipment Topic - Issued and Optional Equipment dated 04/08/05		
159.	84	Fresno Police Department Standing Order 3.5.1 Chapter - Drug Procedures Topic - Drug Influence Cases dated 10/01/94		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
160.	85	Fresno Police Department Standing Order 3.7.1 Chapter - Arrest Procedures Topic - Handling Adult Offenders dated 03/22/05		
161.	86	Fresno Police Department Standing Order 3.8.6 Chapter - Specific Incident Procedures Topic - Mentally Ill Persons and Emergency Commitments dated 03/21/02		
162.	87	Fresno Police Department Standing Order 3.9.16 Chapter - Report Completion Procedures Topic - Application for Evaluation and Treatment dated 10/01/94		
163.	88	Fresno Police Department Roll Call Training Bulletin re: New WIC 5150 Legislation - Bulletin # 02-04 dated 02/28/02		
164.	89	Fresno Police Department Roll Call Training Bulletin re: Positional Asphyxia Legislation - Bulletin #99-14 dated 08/20/99		
165.	90	CD of Pedro Madrid X-rays from Community Regional Medical Center		
166.	91	Records from Community Regional Medical Center re: Pedro C. Madrid dated 02/13/02 - 01/09/07		
167.	92	Billing from Community Regional Medical Center re: Pedro C. Madrid Statement date 01/18/07		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
168.	93	Records from American Ambulance re: Pedro C. Madrid dated 01/09/07		
169.	95	Fresno Police Department Follow Up Report Case No. 07-2381 Type of Report - In Custody Death dated 01/09/07		
170.	107	CD of Officer Interview Recordings, January 2007 <i>Δ OBJECTS: HEARSAY, UNDUE PREJUDICE</i>		
171.	108	CD of Radio Traffic, 01/09/07		
172.	109	Records subpoena to Fresno Rescue Mission - All records re Pedro Madrid destroyed. dated 08/27/10		
173.	110	Photo of a Hobble approximately 3 feet long		
174.	18-55	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, left view of open chest, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
175.	18-56	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, left view of open abdomen and thighs, with genitals, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		

Ex. No.	Tab- ID No.	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
176.	18- 57	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, left view of open thighs and shins with genitals, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
177.	18- 58	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, right view of open chest, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
178.	18- 59	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, right view of open thighs with genitals, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
179.	18- 60	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, right view of open thighs and shins, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
180.	18- 61	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of open back, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
181.	18-62	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of open back and thighs with buttocks, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
182.	18-63	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of back of thighs and calves, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
183.	18-64	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of open back from left side, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
184.	18-65	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of open back and thighs from left side, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
185.	18-66	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of open calves, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		

Ex. No.	Tab- ID No.	Exhibit Description	<i>Date Entered & Ct. I.D. No.</i>	Date Admitted
186.	18- 67	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of open back looking from top of head, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
187.	18- 68	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of open chest and internal organs, left view, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
188.	18- 69	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of open chest and internal organs, right view, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
189.	18- 70	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of open chest and internal organs, right view, close-up, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
190.	18- 71	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, top view skull during removal, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		

Ex. No.	Tab- ID No.	Exhibit Description	<i>Date Entered & Ct. I.D. No.</i>	Date Admitted
191.	18-72	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, side view skull during removal, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
192.	18-73	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, alternate side view skull during removal, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
193.	18-74	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, side view skull during removal, with muscle showing, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
194.	18-75	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, alternate side view skull during removal, with muscle showing, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
195.	18-76	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of brain, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
196.	18-77	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, removal of brain, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
197.	18-78	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, view of muscles of torso, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
198.	18-79	Autopsy Photo: POST-AUTOPSY, Pedro Madrid, close-up of organ, possibly genitalia, 01/14/07 <i>Δ OBJECTS: UNDUE PREJUDICE UNDER FED. R. EVID. 403; IRRELEVANT</i>		
199.		[reserved for future use]		
200.		[reserved for future use]		
		Plaintiffs anticipate using exhibits 1 through 198 listed in Defendants' Pre-Trial Statement in addition to exhibits listed as follows:		
201		Records of Pedro Madrid from University Medical Center		
202		"Streamlight" Alum. Flashlight from Officer M. Lewis, Property No. 072381-6		
203		"TASER" STUN DEVICE Serial Number X00-173191 from Officer M. Lewis, Property No. 072381-7		
204		Family Photographs		
205		Family written statements		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
206		Autopsy photographs of Pedro Madrid		
207		California POST Learning Domains		
208		California POST Learning Domains 1: "Leadership, Professionalism, and Ethics."		
209		California POST Learning Domains #2: "Criminal Justice System."		
210		California POST Learning Domains #3: "Policing in the Community."		
211		California POST Learning Domains #5: "Introduction to Criminal Law."		
212		California POST Learning Domains #12: "Controlled Substances."		
213		California POST Learning Domains #20: "Use of Force."		
214		California POST Learning Domains #1: "Patrol Techniques."		
215		California POST Learning Domains #33: "Arrest Methods Defensive Tactics."		
216		California POST Learning Domains #34: "first Aid and CPR."		
217		Braidwoord Commission (Canada), "Restoring Public Confidence: Restricting the Use of "Conducted Energy Weapons in British Columbia," June 2009.		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
218		Andrew J. Dennis and et al., "Acute Effects of Taser X26 Discharges in a Swine Model." <i>The Journal of TRAUMA Injury, Infection, and Critical Care</i> , September 2007.		
219		U.S. Department of Justice, Officer of Community Oriented Policing Services, "Conducted Energy Devices: Development of Standards for Consistency and Guidance." November, 2006.		
220		LAPD video and training material regarding the deployment and use of the M-26 Taser weapon.		
221		The Los Angeles Police Department Training Bulletin: "In-Custody Deaths." July 1999.		
222		Training Video produced by the Georgia Bureau of Investigation: "Preventing Restraint Asphyxia."		
223		Training Video produced by the New York Police Department: "Best Practices, Positional Asphyxia."		
224		Satellite photographs (via the internet) of the incident scene.		
225		Photographs of the scene, police officers.		
226		Taser International, Inc. Product Warnings		
227		Fresno Police Department color officer, scene, and autopsy photos.		
228		Fresno Police Department Restricted Cover Sheet.		
229		Electronic Weapons Operator Course.		
230		"Community Regional Medical Center" records.		

<i>Ex. No.</i>	<i>Tab-ID No.</i>	<i>Exhibit Description</i>	<i>Date Entered & Ct. I.D. No.</i>	<i>Date Admitted</i>
231		City of Frsno - General Claims Notes (03/25/08).		
232		Fresno Police Department Individual Training Activity Ofcr. Dominic Alvarado.		
233		Fresno Police Department Individual Training Activity Ofcr. Bradley Bailey.		
234		Fresno Police Department Individual Training Activity Ofcr. Derek Scott.		
235		Fresno Police Department Individual Training Activity Det. Rafael Villavazo.		

XI. DISCOVERY DOCUMENTS

Only specifically designated discovery requests and responses will be admitted into evidence. Any deposition testimony shall be designated by page and line and such designations filed with the Court on or before March 29, 2011. The opposing party shall counter-designate by line and page from the same deposition and shall file written objections to any question and answer designated by the opposing party and filed with the court on or before April 5, 2011.

Written discovery shall be identified by number of the request. The proponent shall lodge the original discovery request and verified response with the courtroom deputy one day prior to trial. The discovery request and response may either be read into evidence, or typed separately, marked as an exhibit, as

1 part of the exhibit marking process, and offered into evidence.

2 1. The parties designate the entire transcripts from all
3 depositions taken in this matter for potential impeachment
4 purposes. The parties designate all interrogatory responses and
5 requested admissions made in this matter for potential
6 impeachment purposes. Aside from impeachment, the parties do not
7 anticipate offering discovery documents into evidence.

8 XII. STIPULATIONS

9 1. The parties stipulate to the aforementioned undisputed
10 facts. However, nothing in this statement should be construed as
11 a stipulation as to the *admissibility* of any of the undisputed
12 facts, nor as a stipulation as to the *admissibility* of the
13 testimony of any of the aforementioned witnesses or exhibits.

14 XIII. AMENDMENTS - DISMISSALS

15 1. Defendants oppose any amendments which would add
16 parties to this action.

17 2. Furthermore, in light of the Court's grant of partial
18 summary judgment, defendants City of Fresno and Chief Jerry Dyer
19 are ORDERED DISMISSED from this action.

20 XIV. FURTHER TRIAL PREPARATION

21 A. Trial Briefs.

22 Counsel are directed to file a trial brief in this matter by
23 April 5, 2011. No extended preliminary statement of facts is
24 required. The brief should address disputed issues of
25 substantive law, disputed evidentiary issues of law that will not
26 be resolved in limine, and any other areas of dispute that will
27 require resolution by reference to legal authority.

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1 B. Duty of Counsel To Pre-Mark Exhibits.

2 1. Counsel for the parties are ordered to meet and conduct
3 a joint exhibit conference on March 21, 2011, telephonically, at
4 a time to be agreed upon by all counsel, for purposes of pre-
5 marking and examining each other's exhibits and preparing an
6 exhibit list. All joint exhibits will be pre-marked JX1-JX100;
7 all of the plaintiff's exhibits will be pre-marked with numbers
8 101-300; all of defendant's exhibits will be pre-marked with
9 numbers 301-500.

10 2. Each and every page of each and every exhibit shall be
11 individually Bates-stamped for identification purposes, and
12 paginated with decimals and arabic numerals in seriatim; i.e.,
13 1.1, 1.2, 1.3

14 3. Following such conference, each counsel shall have
15 possession of four (4) complete, legible sets of exhibits, for
16 use as follows:

17 a. Two (2) sets to be delivered to the Courtroom
18 Deputy Clerk, Renee Gaumnitz, no later than 4:00 p.m. on April 6,
19 2011, an original for the court and one for the witness.

20 b. One (1) set to be delivered to counsel for the
21 opposing party and one (1) set to be available for counsel's own
22 use.

23 4. Counsel are to confer to make the following
24 determination as to each of the exhibits proposed to be
25 introduced into evidence and prepare separate indexes, one
26 listing joint exhibits, one listing each party's exhibits:

27 a. Joint exhibits, i.e., any document which both
28 sides desire to introduce into evidence, will be marked as a

1 joint exhibit (JX), and numbered JX1-____. Joint exhibits shall
2 be listed as such in the exhibit list in a column that notes they
3 are admitted into evidence without further foundation;

4 b. As to any exhibit, not a joint exhibit, to which
5 there is no objection to its introduction into evidence, the
6 exhibit will be marked as Plaintiff's Exhibit ____, or Defendant's
7 Exhibit ____ in evidence, and will be listed in the exhibit list
8 as the exhibit of the offering party;

9 c. The exhibit list shall include columns for noting
10 objections to exhibits. The first column will list any
11 objections as to foundation; i.e., Plaintiff's Foundation 2 -
12 "not authenticated."

13 d. The exhibit list shall include a second column for
14 noting substantive objections to exhibits based on any other
15 grounds; i.e., "hearsay, improper opinion, irrelevant."

16 e. The exhibit list shall include a description of
17 each exhibit on the left-hand side of the page, and the three
18 columns outlined above (as shown in the example below).

19 List of Exhibits

	<u>Admitted</u>	<u>Objection</u>	<u>Other</u>	
<u>Exhibit #</u>	<u>Description</u>	<u>In Evidence</u>	<u>To Foundation</u>	<u>Objection</u>

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24 f. The completed exhibit list shall be delivered to
25 Renee Gaumnitz CRD on or before April 6, 2011, by 4:00 p.m.

26 g. If originals of exhibits cannot be located, copies
27 may be used, however, the copies must be legible and accurate.
28 If any document is offered into evidence that is partially not

1 legible, the Court sua sponte will exclude it from evidence.

2 C. Discovery Documents.

3 1. Counsel shall file a list of discovery documents with
4 Renee Gaumnitz CRD at the same time and date as the witness and
5 exhibit lists are lodged with her, unless the discovery documents
6 are marked as exhibits, which counsel intend to use at trial by
7 designating by number, the specific interrogatory, request for
8 admission, or other discovery document. Counsel shall comply
9 with the directions of subsection XII (above) for introduction of
10 the discovery document into evidence.

11 D. Motions In Limine.

12 1. All motions in limine have already been filed. Any
13 further motions in limine shall be filed on or before March 21,
14 2011. Any oppositions shall be filed by April 1, 2011. The
15 Court will conduct a hearing on motions in limine in this matter
16 on April 6, 2011, at 12:00 p.m. in Courtroom 3, Seventh Floor,
17 before the Honorable Oliver W. Wanger United States District
18 Judge, at which time all evidentiary objections, to the extent
19 possible, will be ruled upon, and all other matters pertaining to
20 the conduct of the trial will be settled.

21 E. Trial Documents.

22 1. Exhibits To Be Used With Witness. During the trial of
23 the case, it will be the obligation of counsel to provide
24 opposing counsel not less than forty-eight hours before the
25 witness is called to the witness stand, the name of the witness
26 who will be called to testify and to identify to the Court and
27 opposing counsel any exhibit which is to be introduced into
28 evidence through such witness that has not previously been

1 admitted by stipulation or court order or otherwise ruled upon,
2 and to identify all exhibits and other material that will be
3 referred to in questioning of each witness. If evidentiary
4 problems are anticipated, the parties must notify the court at
5 least twenty-four hours before the evidence will be presented.

6 F. Counsel's Duty To Aid Court In Jury Voir Dire.

7 1. Counsel shall submit proposed voir dire questions, if
8 any, to Renee Gaumnitz CRD at rgaumnitz@caed.uscourts.gov on or
9 before April 4, 2011, by 4:00 p.m. Counsel shall also prepare a
10 joint "statement of the case" which shall be a neutral statement,
11 describing the claims and defenses for prospective jurors, to be
12 used in voir dire.

13 2. In order to aid the court in the proper voir dire
14 examination of the prospective jurors, counsel are directed to
15 lodge with the Court the day before trial a list of the
16 prospective witnesses they expect to call if different from the
17 list of witnesses contained in the Pre-Trial Order of the Court.
18 Such list shall not only contain the names of the witnesses, but
19 their business or home address to the extent known. This does
20 not excuse any failure to list all witnesses in the Pre-Trial
21 Order.

22 3. Counsel shall jointly submit, to Renee Gaumnitz CRD on
23 April 6, 2011, a neutral statement of the claims and defenses of
24 the parties for use by the court in voir dire.

25 G. Counsel's Duty To Prepare And Submit Jury Instructions.

26 1. All proposed jury instructions shall be filed and
27 served on or before April 11, 2011, by 4:00 p.m. Jury
28 instructions shall be submitted in the following format.

1 2. Proposed jury instructions, including verdict forms,
2 shall be submitted via e-mail to dpell@caed.uscourts.gov
3 formatted in WordPerfect for Windows X3. Counsel shall be
4 informed on all legal issues involved in the case.

5 3. The parties are required to jointly submit one set of
6 agreed upon jury instructions. To accomplish this, the parties
7 shall serve their proposed instructions upon the other fourteen
8 days prior to trial. The parties shall then meet, confer, and
9 submit to the Court the Friday before the trial is to commence,
10 one complete set of agreed-upon jury instructions.

11 4. If the parties cannot agree upon any instruction, they
12 shall submit a supplemental set of instructions designated as not
13 agreed upon by April 11, 2011, by 4:00 p.m.

14 5. Each party shall file with the jury instructions any
15 objection to non-agreed upon instructions proposed by any other
16 party. All objections shall be in writing and shall set forth
17 the proposed instruction objected to in its entirety. The
18 objection should specifically set forth the objectionable matter
19 in the proposed instruction and shall include a citation to legal
20 authority explaining the grounds for the objection and why the
21 instruction is improper. A concise statement of argument
22 concerning the instruction may be included. Where applicable,
23 the objecting party shall submit an alternative proposed
24 instruction covering the subject or issue of law.

25 6. Format. The parties shall submit one copy of each
26 instruction. The copy shall indicate the party submitting the
27 instruction, the number of the proposed instruction in sequence,
28 a brief title for the instruction describing the subject matter,

1 the test of the instruction, the legal authority supporting the
2 instruction, and a legend in the lower lefthand corner of the
3 instruction: "Given," "Given As Modified," "Withdrawn" and
4 "Refused" showing the Court's action with regard to each
5 instruction and an initial line for the judge's initial in the
6 lower right-hand corner of the instruction. Ninth Circuit Model
7 Jury Instructions should be used where the subject of the
8 instruction is covered by a model instruction.

9 7. All instruction should be short, concise,
10 understandable, and neutral statements of the law. Argumentative
11 or formula instructions will not be given, and should not be
12 submitted.

13 8. Parties shall, by italics or underlining, designate any
14 modifications of instructions from statutory authority, or any
15 pattern instruction such as the Model Circuit Jury Instructions
16 or any other source of pattern instructions, and must
17 specifically state the modification made to the original form
18 instruction and the legal authority supporting the modification.

19 9. Proposed verdict forms shall be jointly submitted or if
20 the verdict forms are unagreed upon, each party shall submit a
21 proposed verdict form. Verdict forms shall be submitted to the
22 Courtroom Deputy Clerk on the first day of the trial.

23 10. Failure to comply with these rules concerning the
24 preparation and submission of instructions and verdict forms may
25 subject the non-complying party and/or its attorneys to
26 sanctions.

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28 ///

1 resolving the matter.

2 XVIII. SEPARATE TRIAL OF ISSUES

3 1. Defendants have moved for trifurcation of the trial of
4 this matter into three phases: (1) a first phase of trial
5 addressing the issues of whether or not Officers JUAN GURROLA,
6 JUSTIN BELL, MONTY LEWIS, JR., GEORGE VALDEZ, or FRANK MENDOZA
7 (hereafter collectively as the "Officer Defendants") violated any
8 of plaintiff's or decedent Pedro Madrid's constitutional or civil
9 rights during the incident at issue; (2) a second phase of trial
10 addressing the issues of whether the CITY OF FRESNO and/or Chief
11 JERRY DYER (hereafter collectively as the "City Defendants") may
12 be held liable under the case law associated with *Monell v.*
13 *Department of Soc. Serv.*, 436 U.S. 658, 690-691, 694-695 (1978)
14 or *Canton v. Harris*, 489 U.S. 378, 388-389 (1989) (hereafter
15 collectively as "Monell Liability Issues"); and (3) a third phase
16 of trial addressing the issues of whether plaintiff is entitled
17 to punitive/exemplary damages and related prerequisite evidence
18 in support thereof. Along these lines, defendants have moved *in*
19 *limine* to exclude Phase 2 and Phase 3 issues from Phase 1, as
20 well as to exclude Phase 3 issues from Phase 2.

21 2. There are no *Monell* issues remaining. The only issues
22 which will be phased is the amount of punitive damages, if any.
23 That issue will be tried in a second phase of a continuous trial
24 before the same jury.

25 XIX. IMPARTIAL EXPERTS, LIMITATIONS OF EXPERTS

26 1. The parties have designated only 5 retained experts in
27 this case: 2 for plaintiff; 3 for defendants. Defendants have
28 moved to exclude the opinion testimony of both of plaintiff's

1 experts under *Daubert* on grounds of invalid bases/methodology and
2 lack of qualification. However, there is no need for a specific
3 quota-limit on the number of qualified experts who may testify in
4 this case.

5 2. The parties do not anticipate any need for court-
6 appointment of any impartial expert witnesses at this time.

7 XX. ATTORNEYS' FEES

8 1. Plaintiff seeks attorneys' fees pursuant to California
9 Civil Code sections 51.7, 52, and 52.1, as well as pursuant to 42
10 U.S.C. section 1988. [See Pl.'s 1st Am. Compl. at 16, Dkt. Doc.
11 37.]

12 2. Defendants reserve the right to the recovery of any
13 attorneys' fees to which they may be entitled should defendants
14 obtain a judgment in their favor.

15 XXI. ESTIMATE OF TRIAL TIME

16 1. Eight to ten days.

17 XXII. TRIAL DATE

18 1. April 12, 2011, at 9:00 a.m., in Courtroom 3, on the
19 Seventh Floor.

20 XXIII. NUMBER OF JURORS AND PEREMPTORY CHALLENGES

21 1. There will be an eight person jury with four peremptory
22 challenges per side.

23 XXIV. AMENDMENT OF FINAL PRETRIAL ORDER

24 1. The Final Pretrial Order shall be reviewed by the
25 parties and any corrections, additions, and deletions shall be
26 drawn to the attention of the Court immediately. Otherwise, the
27 Final Pretrial Order may only be amended or modified to prevent
28 manifest injustice pursuant to the provisions of Fed. R. Civ. P.

1 16(e) .

2 XXV. TRIAL PROTECTIVE ORDER

3 1. A protective order regarding confidential documents is
4 already operative in this matter. [See Order, Nov. 12, 2009,
5 Dkt. Doc. 34.] Additionally, defendants have moved to exclude
6 from evidence and to seal all *transcripts* of investigative
7 interviews conducted by the City during its investigation into
8 the incident at issue in this action. [See Defts.' Mot. *in*
9 *Limine* no. 5, Feb. 10, 2011, Dkt. Doc. 75.]

10 XXVI. MISCELLANEOUS

11 1. The parties reserve their right to raise additional
12 issues pursuant to Fed. R. Civ. P. 16(c) at the Pre-Trial
13 Conference of this matter, as appropriate.

14 2. The provisions of Local Rule 281(c), regarding claims
15 of privilege to disclosures made herein, do not apply to this
16 Statement.

17 3. Pursuant to Local Rule 281(d), the foregoing
18 disclosures satisfy the requirements of Fed. R. Civ. P. 26(a)(3).

19
20 IT IS SO ORDERED.

21 Dated: March 18, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE